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By ECF

June 9, 2022

Honorable Gabriel W. Gorenstein
United States Magistrate Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

In Re: *New York City Policing During Summer 2020 Demonstrations*,
No. 20 Civ. 8924 (CM) (GWG)
This filing is related to all cases

Your Honor:

I am a Senior Counsel in the Office of the Honorable Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and I am among counsel for the defense in the above-referenced matter. Defendants write, after review of the Discovery Charts, to respectfully inform the Court of any “misstatements on the Discovery Chart of which the City is aware.” (Dkt. Nos. 541, 546). By letter dated May 27, 2022, defendants wrote to inform the Court of “any missed deadlines,” indicated on these Charts (Dkt. No. 560), which was also part of that Court Order.

As mentioned in defendants’ May 27th letter, (Dkt No. 560) the document requests in these consolidated cases were split into two charts: one for the consolidated document requests and another for the document requests in the individual cases. These Charts were provided to plaintiffs on April 15, 2022.¹ Defendants’ report herein make mention to the information from those Charts. After review of the Document Requests in those Discovery Charts, the misstatements of which the City is aware are as follows.²

¹ The Discovery Charts are currently being revised to correct for any inaccuracies and to include any updates in production. They will be sent to the plaintiffs and union interveners.

² The plaintiffs in *Yates* and *Minett* recently accepted Rule 68 Offers of Judgment. As such, document requests directly from those cases, to the extent any were served, are not addressed herein.

- *Consolidated Document Requests:*

*Consolidated Document Request Nos. 1, 2, 4, 7, 8-11, 13-14, 16, 18-21, 24, 30-36, 38 and 49-51.*³ The responses on the Discovery Chart to these Requests indicate that responsive documents will be produced by “April 15th,” “the court-ordered date,” or the “court ordered deadline.” Any responsive documents were provided on or before April 15, 2022.

Consolidated Document Request No. 3. In response to this Request, plaintiffs were referred to three websites and various volumes of produced documents. Defendants’ response was overly inclusive. The responsive document of which defendants are aware was produced in Volume 18.

Consolidated Document Request No. 8. To the extent that the response to this Request indicates that all body-worn camera (“BWC”) footage from every officer who was present for any of the Schedule A protests was produced before April 15, 2022, this would be inaccurate, although the response does include the phrase, “where possible” in connection to producing BWC footage. Defendants produced additional footage pursuant to supplemental Requests. To the extent this additional footage would have been responsive to the initial Request, we include this Request as part of this letter.

Consolidated Document Request No. 36. The response to this Request indicates that Lt. Stephen Czark assisted with the request. The officer’s name is actually Lt. Christopher Czark.

Consolidated Document Request No. 51. This Request is revised to state that defendants will not produce HIPPA releases from officers to the plaintiffs.

Consolidated Document Request Nos. 52, 53, 56, 75, 76, 81, 82, 87, 88, 89, 90, 100. The responses to these Requests are being revised to no longer indicate that documents are being processed and/or that searches are continuing.

Consolidated Document Request Nos. 63, 64, 66, 67, 70, 71, 81, 83, 84, 87 92, 95, 96, 99-100. The responses to these Requests are being revised to no longer indicate that further searches are being made.

Consolidated Document Request Nos. 77-78. The response on the Chart indicates, “[t]o the extent that any responsive documents located are protected by privilege, Defendants will provide a relevant privilege log by the Court-ordered date.” However, while it appears a small number of documents responsive to each of these requests may have been produced prior to the April 15th deadline, not all responsive documents were produced in advance of that deadline. In addition, upon information and belief, no privilege log was produced for any responsive documents withheld due to privilege.

³Because of the voluminous nature of some of the document requests, rather than quote them verbatim, defendants respectfully refer the Court to the charts for a full recitation of the requests discussed herein.

Consolidated Document Request No. 91. The Discovery Chart indicates that, “[r]esponsive documents, to the extent any exist will be produced prior to the Court ordered deadline. Logs/documents in the CCRB files previously produced note ‘challenges,’ if any.” However, updated CCRB files continue to be produced on a rolling basis as they are provided to defendants.

Consolidated Document Request No. 93. The Discovery Chart indicates, “[f]light data reports to be provided, as previously discussed.” Upon information and belief, flight data reports were previously produced, but out of an abundance of caution, defendants are reproducing these documents.

- *People’s Document Requests:*

First Supplemental Document Request No. 9. In response to this Request, the Chart indicates that, “[d]efendants conducted a search and were unable to find any BWC related to this individual.” However, BWC videos responsive to this request were previously produced both on and before March 18, 2022.

- *Sow Document Requests:*

Document Request Nos. 15, 31, 32. In response to these Requests, the Chart indicates that, “[a]ny responsive documents to the extent that any exist will be provided prior to the Court-ordered date.” However, responsive documents were produced prior to April 15, 2022.

Document Request No. 20. In response to this Request, the Chart indicates that defendants, “produced documents responsive to this request on March 11, 2022.” However, responsive documents were produced both before March 11, 2022, and on March 14, 2022.

Document Request No. 30. In the response to this Request, the Chart indicates that defendants, “object as this request is overbroad, irrelevant, overly burdensome and not proportional to the needs of the case.” Notwithstanding this objection, responsive documents were produced on or before April 15, 2022.

Document Request No. 36. In response to this Request, the Chart referenced production volumes that included responsive documents and stated, “[a]ny additional responsive documents to the extent that any exist will be provided prior to the Court-ordered date.” However, additional responsive documents were produced prior to April 15, 2022.

- *Payne Document Requests:*

Second Supplemental Document Request No. 1. In response to this Request, the Chart indicates that, “[r]esponsive documents will be provided prior to the Court-ordered deadline. A privilege log will be provided to the extent that any privileged documents are withheld.” Officers were not identified in response to Interrogatory No. 16 prior to April 15, 2022, and no officers have been identified in response to Interrogatory No. 17. Thus, this statement is inaccurate.

Third Supplemental Document Request No. 3. In response to this Request, the Chart indicates that, “[d]ocuments [were] previously produced. Additional non-privileged documents, if any, will be provided. A privilege log will be provided to the extent that any privileged documents are withheld.” Officers were not identified in response to Interrogatory No. 20. Thus, this statement is inaccurate.

- *Gray Document Requests:*

First Request for Production of Documents Nos. 1, 3, 4, 7, 8, 11, 12, and the Second Request No. 30. The Chart indicates that, “[r]esponsive documents will be provided prior to the Court-ordered deadline.” However, documents for these requests were previously produced both on or before April 15, 2022.

- *Sierra Document Requests:*

First Set of Supplemental Discovery Request No. 1 and Sierra Third Set of Supplemental Discovery Request No. 5. The response to this Request states that, “as per agreement of the parties, all Argus footage sought by plaintiffs is in the process of being collected and will be produced forthwith.” Although some footage may have been produced as part of an investigation file, it would be inaccurate to state that the ARGUS footage was produced by April 15, 2022. The ARGUS footage by itself was produced on May 25, 2022, and on May 27, 2022.

First Set of Supplemental Discovery Document Request No. 5. The Chart indicates that, “[d]efendants are coordinating with NYPD to continue searching for any documents that may be responsive to this request,” This statement appears to be inaccurate. However, defendants are currently coordinating with NYPD to search for responsive documents to this Request.

Defendants have, to the best of their ability, identified those entries on the Discovery Chart that include any misstatement of which they are aware. Thank you for your consideration herein.

Respectfully submitted,

Amy Robinson s/
Amy Robinson
Senior Counsel

cc: ALL COUNSEL (via ECF)